

DOCUMENT RESUME

02897 - [A1953016]

[Transportation of Household Goods, Time Limitation]. B-188292.  
July 8, 1977. 3 pp.

Decision re: Peter E. Donnelly; by Robert F. Keller, Deputy  
Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation  
(305).

Contact: Office of the General Counsel: Civilian Personnel.  
Budget Function: General Government: Central Personnel  
Management (805).

Organization Concerned: National Labor Relations Board.

Authority: 5 U.S.C. 5724. 20 Comp. Gen. 568. B-181080 (1974).  
B-156472 (1965). P.T.A. (FPMR 101-7), para. 2-1.5a(2). 49  
Comp. Gen. 145. B-181611 (1974).

James A. Stepien, Authorized Certifying Officer,  
National Labor Relations Board, requested a decision on payment  
of a claim of a transferred employee for costs of transportation  
of household goods 2 years after the date of transfer. The  
travel voucher was not payable, as employee did not begin  
transportation of goods within statutory time limits. An  
administrative extension was voided as the Government is not  
bound beyond actual authority of statutes or regulations.  
(Author/DJM)

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DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20540

Civ. Per  
AGAZARIAN

FILE: B-188292

DATE: July 8, 1977

MATTER OF: Peter E. Donnelly - Transportation Of Household  
Goods - Time Limitation

- DIGEST:
1. Household goods of employee, who transferred from Jacksonville, Florida, to Washington, D.C. on May 1, 1974, were not shipped to Washington area until June 7, 1976, because employee did not obtain custody of his children until March 15, 1976, and they remained in Florida until end of school year. Although agency granted employee extension beyond 2-year time limitation in para. 2-1.5a(2) of Federal Travel Regulations, he is not entitled to transportation of household goods. Time limitation regulation was issued pursuant to 5 U.S.C. 5724 (1970) and, therefore, has force and effect of law and may not be waived by agency or GAO.
  2. Transferred employee is not entitled to transportation of household goods since transportation did not begin within 2-year period allowed by FTR para. 2-1.5a(2) (May 1973). Movement of portion of household goods within limitation period does not satisfy requirement of regulations for transportation of goods not begun within 2 years. Also, shipment does not begin on date of bill of lading within 2-year period, it begins when carrier receives household goods with order to ship to particular destination.

This matter concerns the request dated January 31, 1977, of Mr. James A. Stepien, an authorized certifying officer of the National Labor Relations Board (NLRB) for a decision whether he may certify for payment a travel voucher containing the claim of \$842.44 by Mr. Peter E. Donnelly, an NLRB Administrative Law Judge, for expenses of transportation of household goods incurred incident to his transfer from Jacksonville, Florida, to Washington, D.C. The claim is for the costs of transportation of 4,360 pounds of household goods from Jacksonville, Florida, to Gaithersburg, Maryland. Our decision is requested because the transportation of the household goods did not begin within 2 years of the date of Mr. Donnelly's transfer.

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The record shows that the effective date of Mr. Donnelly's transfer from Jacksonville to Washington was May 1, 1974. Mr. Donnelly states that at the time of his transfer he only transported his personal belongings to the Washington area as his ex-wife had custody of their three young children. After he was awarded custody of the children on March 15, 1976, Mr. Donnelly waited until after the close of the school year before he had the remainder of his household goods shipped by commercial carrier from Jacksonville to Gaithersburg. Mr. Donnelly had been advised by the Chief of the Traffic and Voucher Examining Division (NLRB) that the Chief Administrative Law Judge (NLRB) had the authority to approve an extension of the 2-year time limitation applicable to reimbursement of travel and transportation expenses incurred incident to transfer. Mr. Donnelly's written request dated March 9, 1976, for an extension of the prescribed time limitation was approved by the Chief Administrative Law Judge. Shortly thereafter, Mr. Donnelly obtained a travel advance and had the household goods shipped by common carrier on June 7, 1976. Mr. Donnelly believes he is entitled to payment since he needed the extension to permit his children to finish the school year and he relied on the extension which was granted.

In connection with entitlement to reimbursement of travel and transportation expenses Federal Travel Regulations (FTR) paragraph 2-1.5a(2) (May 1973) provides in pertinent part as follows:

"(2) Time limits for beginning travel and transportation. All travel, including that for the immediate family and transportation, including that for household goods allowed under these regulations, shall be accomplished as soon as possible. The maximum time for beginning allowable travel and transportation shall not exceed 2 years from the effective date of the employee's transfer or appointment \* \* \*."

The above regulation was issued pursuant to 5 U.S.C. 5724 (1970). Therefore, it has the force and effect of law and may not be waived or modified by either our Office or by the agency. Matter of Daryl L. Mahoney, B-131611, December 26, 1974, and 49 Comp. Gen. 145 (1969). The approval of an extension of the 2-year time limitation was void as it is a well settled rule

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that the Government cannot be bound beyond the actual authority conferred upon its agents by statute or by regulation. B-181080. May 21, 1974.

Mr. Donnelly also contends that his claim is valid despite the prescribed time limitation because FTR para. 2-1.5a(2) (1973) only requires that the move must begin within the 2-year time period and his travel in 1974, along with the transportation of some of his household goods at that time, satisfied such requirement. It is clear from the language of FTR para. 2-1.5a(2) that the movement of a portion of the employee's household goods or personal effects or his personal travel within the limitation period does not satisfy the requirements of the regulation with regards to travel or transportation which does not begin until after the 2-year time period has expired. See B-156472, June 1, 1965.

In addition Mr. Donnelly contends that the beginning date of transportation of household goods includes the date of the bill of lading and freight bill. In this instance that date is March 31, 1976, which is within the pertinent 2-year period. In applying the words "transportation shall not exceed 2 years from the effective date of the employee's transfer" appearing in FTR para. 2-1.5a(2) (May 1973), it is proper to consider the beginning of the transportation of household goods as the time the common carriers' liability attaches to the shipment, namely, the time the carrier receives the goods with an order to forward them to a particular destination. See 20 Comp. Gen. 568 (1941). In the present case the bill of lading and freight bill shows the actual pickup date of the household goods for shipment as June 7, 1976, which is more than 2 years from the effective date of Mr. Donnelly's transfer on May 1, 1974.

Since there is no authority to waive the provisions of FTR para. 2-1.5a(2) (1973) and the transportation of Mr. Donnelly's household goods did not begin within the 2-year time limitation, there is no legal basis to allow payment. Accordingly, the travel voucher may not be certified for payment.

  
Deputy Comptroller General  
of the United States